



Practitioner's Docket No.TRW(TE)5659

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Albert W. DeBoni

Application No.: 09/839,911

Group No.: 3661

Filed: April 20, 2001

Examiner: Marthe Y. Marc-Coleman

For: **SYSTEM AND METHOD FOR CONTROLLING VEHICLE SUSPENSION COMPONENTS
AND VEHICLE OCCUPANT PROTECTION DEVICES**

Mail Stop Appeal Brief-Patents

Commissioner for Patents

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**TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION—37C.F.R. 1.192)**

Note: *The phrase "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) (Which provides an adjustment of patent term if there is a delay on the part of the Office to respond within 4 months after an "appeal was taken") means the date on which an appeal brief under § 1.192 (and not a notice of appeal) was filed. Compliance with § 1.192 requires that: 1. the appeal brief fee (§ 1.17(c)) be paid (§ 1.192(a)); and 2. the appeal brief complies with § 1.192(c)(1) through (c)(9). See Notice of September 18, 2000, 65 Fed. Reg. 56366, 56385-56387 (Comment 38).*

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on July 29, 2004

NOTE: *"Appellant must, within two months from the date of the notice of appeal under § 1.191 or within the time allowed for reply to the action from which the appeal was taken, if such time is later, file a brief in triplicate. . ." 37 C.F.R. § 1.192(a) (emphasis added).*

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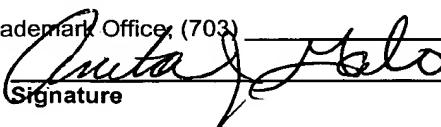
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Date: September 28, 2004

Anita J. Galo

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**Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.*

2. STATUS OF APPLICANT

This application is on behalf of

- other than a small entity.
- a small entity.

A statement

- is attached.
- was already filed.

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. 1.17(c), the fee for filing the Appeal Brief is:

<input type="checkbox"/> small entity	\$165.00
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Appeal Brief fee due \$330.00

4. EXTENSION OF TERM

NOTE: 37 C.F.R. § 1.740(b) "...an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the date after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has not effect on the three-month period set forth in this paragraph."

NOTE: The time periods set forth in 37 C.F.R. § 1.192(a) are subject to the provision of § 1.136 for patent applications. 37 C.F.R. § 1.191(h). See also Notice of November 5, 1985 (1060 O.G. 27).

NOTE: As the two-month period set in § 1.192(a) for filing an appeal brief is not subject to the six-month maximum period specified in 35 U.S.C. § 133, the period for filing an appeal brief may be extended up to seven months. 62 Fed. Reg. 53,131 at 53,156; 1203 O.G. 63 at 84 (Oct. 10, 1997).

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

(complete (a) or (b), as applicable)

(a) Applicant petitions for an extension of time under 37 C.F.R. 1.136
(fees: 37 C.F.R. 1.17(a)(1)-(5)) for the total number of months check
below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
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<input type="checkbox"/> three months	\$ 950.00	\$475.00
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Fee \$ _____

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next time, if applicable)

An extension for _____ months has already been secured and the fee paid therefor of \$_____ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$_____

or

(b) Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

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NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to change the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986 (1065 O.G. 31-33).

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SIGNATURE OF PRACTITIONER

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09/28/2004
DATE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Albert W. DeBoni
Serial No. : 09/839,911
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For : SYSTEM AND METHOD FOR
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Attorney Docket No. : TRW(TE)5659

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APPEAL BRIEF

Sir:

Following the Notice of Appeal filed July 29, 2004, Appellant presents this
Appeal Brief, filed in triplicate.

1. REAL PARTY IN INTEREST

The real party in interest is TRW Automotive U.S. LLC. An assignment of this application to TRW, Inc. was recorded April 20, 2001, Reel/Frame: 011732/0834. This application has been subsequently assigned to TRW Automotive U.S. LLC via an unrecorded assignment.

2. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

3. STATUS OF CLAIMS

Claims 1-18 were originally filed.

In an Office Action dated June 4, 2002, claims 1-5, 7-10, 12-14, and 18 were rejected as being anticipated under 35 U.S.C. §102(b) by Dao, U.S. Patent No. 5,808,197. Claims 15-17 were rejected as being obvious over Dao and, in the alternative, Galvin et al., in view of Darby et al., U.S. Patent No. 5,835,873. Claims 6 and 11 were indicated as being allowable if rewritten in independent form.

An Amendment was filed on October 4, 2002 in which claims 3 and 4 were amended. The Amendment of October 4, 2002 also traversed the rejections of claims 1-5, 7-10, and 12-18.

In an Office Action dated November 26, 2002, claims 1-5, 7-10, and 12-14 were rejected as being anticipated under 35 U.S.C. §102(b) by Burton et al., GB No. 2 292 126 A. Claims 15-18 were indicated as being allowed and claims 6 and 11 were indicated as being allowable if rewritten in independent form.

In a Response filed February 26, 2003, the rejection of claims 1-5, 7-10, and 12-14 was traversed.

In a subsequent non-final Office Action dated May 13, 2003, claims 1-5, 8-10, 13, and 14 again were rejected as being anticipated under 35 U.S.C. §102(b) by Burton et al., GB No. 2 292 126 A. Claims 7 and 12 were rejected as being obvious over Burton et al. in view of Bauer et al., U.S. Patent No. 6,550,810. Claims 15-18 were indicated as being allowed and claims 6 and 11 were indicated as being allowable if rewritten in independent form.

In an Amendment filed August 13, 2003, claims 1, 8, 9, and 13 were amended. The Amendment also notified the Examiner that Bauer et al. and the present invention were commonly owned and, since Bauer et al. qualifies as prior art only under 35 U.S.C. §102(e), Bauer et al. is not available as a prior art reference in an obviousness rejection.

In a non-final Office Action dated October 10, 2003, claims 1-5, 8-10, 13, and 14 again were rejected as being anticipated under 35 U.S.C. §102(b) by Burton et al. Claims 7 and 12 were rejected as being obvious over Burton et al. in view of Halasz et al., U.S. Patent No. 5,890,084. Claims 15-18 were indicated as being allowed and claims 6 and 11 were indicated as being allowable if rewritten in independent form.

In a Response filed on January 9, 2004, the rejections of claims 1-5, 7-10, and 12-14 were traversed.

In an Office Action dated March 29, 2004, claims 1-5, 8-10, 13, and 14 were finally rejected as being anticipated under 35 U.S.C. §102(b) by Burton et al. Claims 7 and 12 were finally rejected as being obvious over Burton et al. in view of Halasz et al., U.S. Patent No. 5,890,084. Claims 15-18 were indicated as being

allowed and claims 6 and 11 were indicated as being allowable if rewritten in independent form.

A Notice of Appeal was filed on July 29, 2004 in response to the Office Action of March 29, 2004.

In sum, independent claims 1 and 13 and dependent claims 2-5, 7-10, and 12-14 are rejected and the rejection is appealed.

4. STATUS OF AMENDMENTS

No amendment was filed after the Office Action of March 29, 2004.

5. SUMMARY OF THE INVENTION

The present invention relates to a system 10 for controlling an active suspension component 12 of a vehicle 50 and a vehicle occupant protection device 14 of the vehicle. The system 10 comprises a single controller 70. The single controller 70 is controllably connected to at least one active suspension component 12 of the vehicle 50 and is controllably connected to at least one vehicle occupant protection device 14 of the vehicle. The system 10 also includes at least one sensor, for example, sensor 72, for sensing acceleration of the vehicle along at least one axis of the vehicle 50. The at least one sensor, e.g., sensor 72, is operatively connected to the single controller 70 to provide at least one signal indicative of vehicle acceleration along the at least one axis to the single controller. The single controller 70 is operative to control at least one active suspension component 12 in response to the at least one signal. The single controller 70 also is operative to control the at least one vehicle occupant protection device 14 in response to the at least one signal.

The vehicle suspension components 12 are active suspension components that include actuators for applying forces that oppose vehicle motions, such as roll and pitch. The vehicle suspension components 12 may include shock absorbers 20, struts 22, and stabilizer bars 24.

The vehicle occupant protection devices 14 may include inflatable restraints, such as, front impact air bags 30, side impact air bags 32, inflatable side curtains 34, and inflatable knee bolsters 36. The vehicle occupant protection devices 14 may also include seat belt tensioners 40 and seat belt retractors 42.

The system 10 illustrated schematically in Fig. 1 includes three acceleration sensors. The three acceleration sensors include an x-axis accelerometer 72 for sensing acceleration along an x-axis of the vehicle 50, a y-axis accelerometer 74 for sensing acceleration along a y-axis of the vehicle, and a z-axis accelerometer 76 for sensing acceleration along a z-axis of the vehicle. As an alternative to three single axis accelerometers 72, 74, and 76, a multiple axis accelerometer may be used for sensing accelerations along the x-axis, y-axis, and z-axis of the vehicle 50.

The x-axis accelerometer 72, the y-axis accelerometer 74, and the z-axis accelerometer 76 are all operatively connected to and provide accelerations signals to the single controller 70. The single controller 70 may also be operatively connected to and may receive signals from a vehicle data bus 80 and other sensors 82, such as steering angle sensors.

The single controller 70 is controllably connected to the vehicle suspension components 12 and the vehicle occupant protection devices 14. The single controller 70 is responsive to signals received from the accelerometers 72, 74, 76,

and signals received via the vehicle data bus 80 and the other sensors 82 for controlling the vehicle suspension components 12 and the vehicle occupant protection devices 14. Based upon the signals provided by the accelerometers 72, 74, and 76, the single controller 70 controls the magnitude or force at which the vehicle suspension components 12 are actuated. The single controller 70 is also responsive to the signals from the accelerometers 72, 74, and 76 for controlling actuation of the vehicle occupant protection devices 14.

In accordance with an exemplary process performed by the single controller 70 of the system 10, the single controller 70 obtains vehicle acceleration data from the accelerometers 72, 74 and 76. Based upon the obtained vehicle acceleration data, the single controller 70 determines whether a vehicle roll and/or pitch condition exists. If a vehicle roll and/or pitch condition is determined, the single controller 70 actuates the active suspension components 12. If a vehicle roll and/or pitch condition is not determined, the single controller 70 determines whether a vehicle impact and/or rollover condition exists. If a vehicle impact and/or rollover condition is not determined, the single controller 70 obtains new vehicle acceleration data from the accelerometers 72, 74, and 76. If a vehicle impact and/or rollover condition is determined, the single controller 70 actuates one or more of the vehicle occupant protection devices 14.

6. ISSUES

- a. Whether the rejection of independent claim 1 and 13 and dependent claims 2-5, 8-10, and 14 as being anticipated by Burton et al. is proper.

- b. Whether the rejection of dependent claims 7 and 12 as being obvious over Burton et al. in view of Halasz et al. is proper.

7. **GROUPING OF CLAIMS**

- a. Independent claim 1 and 13 and dependent claims 2-5, 7-10, 12, and 14 stand or fall together.

Allowed claims 15-18 and allowable claims 6 and 11 do not stand or fall with the claims of groups a.

8. **ARGUMENT**

Anticipation requires a single prior art reference that discloses each element of the claim. W.L. Gore & Associates v. Garlock, Inc., 220 USPQ 303, 313 (Fed. Cir. 1983) *cert. denied* 469 U.S. 851 (1984). For a reference to anticipate a claim, “[t]here must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.” Scripps Clinic & Research Foundation v. Genentech Inc., 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). It is respectfully suggested that Burton et al. fails to anticipate claim 1 for at least the following reasons:

1. **The signal processing unit 16 of Burton et al. is not a controller.**

Claim 1 recites a single controller that is controllably connected to at least one active suspension component of a vehicle and that is controllably connected to at least one vehicle occupant protection device of the vehicle. In rejecting claim 1, the Office Action states that the signal processor unit 16 of Burton et al. is the single controller. (Office Action, page 2). It is respectfully suggested that the signal processor unit 16 of Burton et al. is not a controller.

Unless clearly defined, the words of a claim will be given their ordinary meaning to one of skill in the art. Vitronics Corp. v. Conceptronic, Inc., 90 F.3d 1576, 1581-82 (Fed. Cir. 1996). Dictionaries, encyclopedias, and treatises may be used in determining the ordinary meaning of the words of a claim. Texas Digital Systems, Inc. v. Telegenix, Inc., 308 F.3d 1193, 1202 (Fed. Cir. 2002).

Burton et al. never specifically defines the signal processing unit 16. Burton merely states that at least one acceleration sensing means is connected to the signal processor unit 16 and that the signal processor unit 16 provides at least one acceleration related signal. (Burton et al., page 1, lines 16-20). Burton et al. also teaches that the signal processing unit 16 "acts so as to transform the data received from the accelerometers 21, 22, 23 into the required outputs for the sub-systems supplied by applying pre-determined transfer functions to the inputs to produce the required outputs. (Burton et al., page 3, lines 9-13). Thus, Burton et al. fails to describe the signal processor unit 16 as anything more than a device for modify an input signal.

The Illustrated Dictionary of Electronics 6th Ed., defines a "signal processor" as: "any device--such as a preamplifier, expander, amplitude limiter, delay network, and the like--which may be inserted into a system, often externally, to modify an input signal or an output signal." This definition of a signal processor is consistent with the teachings of Burton et al. with regard to the signal processing unit 16 only modifying an input signal, such as with a preamplifier, expander, amplitude limiter, delay network, and the like.

Given the teachings of Burton et al. and the similar dictionary definition of a signal processor, one of ordinary skill in the art would not find the signal processor unit 16 of Burton et al. to be a controller. Instead, one of ordinary skill in the art would find that the signal processor unit 16 of Burton et al. is merely a circuit that transforms or modifies the acceleration output signals into a form to be subsequently used by other circuitry. Since the signal processor unit 16 is not a controller, Burton et al. fails to teach or suggest a single controller that is controllably connected to at least one active suspension component of a vehicle and that is controllably connected to at least one vehicle occupant protection device of the vehicle, as is recited in claim 1. Therefore, it is respectfully suggested that the rejection of claim 1 as anticipated by Burton et al. is improper and should be withdrawn.

2. Burton et al. fails to teach or suggest a single controller for controlling an active suspension component and a vehicle occupant protection device.

Claim 1 also recites that the single controller is operative to control at least one active suspension component and also is operative to control at least one vehicle occupant protection device. Burton et al. fails to teach or suggest a single controller for controlling at least one active suspension component and at least one vehicle occupant protection device.

The signal processor unit 16 of Burton et al. does not control an active suspension component. Burton et al. specifically teaches that a signal supplied by the signal processor unit 16 is used by a suspension control unit 18 to vary the characteristic of the shock absorbers 12. Thus, the suspension control unit 18 controls the active suspension components in Burton et al. The signal processor

unit 16 of Burton et al. provides no control. The signal processor unit 16 only provides input signals to the suspension control unit 18.

Likewise, the suspension control unit 18 of Burton et al. does not control a vehicle occupant protection device 19. Burton et al. teaches that the signal supplied by the signal processor unit 16 to the airbag assembly 19 is used to energize the gas generator. Burton et al. fails to teach or suggest that the suspension control unit 18 provides any control of the airbag assembly 19. Moreover, as shown in Fig. 1 of Burton et al., the suspension control unit 18 is not controllably connected to the airbag assembly 19. Thus, Burton et al. fails to teach or suggest a single controller that is operative to control at least one active suspension component and is also operative to control the at least one vehicle occupant protection device. Since Burton fails to teach or suggest each feature of claim 1, it is respectfully suggested that the rejection of claim 1 as anticipated by Burton et al. is improper and should be withdrawn.

Claims 2-5, 7-10, and 12 depend from claim 1 and are allowable for at least the same reasons as claim 1. Therefore, it is respectfully suggested that the rejection of claims 2-5, 7-10, and 12 is also improper and should be withdrawn.

It is respectfully suggested that the rejection of claim 13 as anticipated by Burton et al. is improper for at least the same reasons as claim 1. Claim 14 depends from claim 13 and is allowable for at least the same reasons as claim 13. Therefore, it is respectfully suggested that the rejection of claims 13 and 14 as anticipated by Burton et al. is also improper and should be withdrawn

In view of the foregoing, Appellant respectfully submits that claims 1-18 are allowable. Reversal of the rejections is respectfully requested.

9. **APPENDIX**

Appendix A attached contains a copy of the claims on appeal.

Please charge any deficiency or credit any overpayment in the fees for this Appeal Brief to Deposit Account No. 20-0090.

Respectfully submitted,



Daniel J. Whitman
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APPENDIX A

1. A system for controlling an active suspension component of a vehicle and a vehicle occupant protection device of the vehicle, said system comprising:
a single controller, said single controller being controllably connected to at least one active suspension component of a vehicle and controllably connected to at least one vehicle occupant protection device of the vehicle; and
at least one sensor for sensing acceleration of the vehicle along at least one axis of the vehicle, said at least one sensor being operatively connected to said single controller to provide at least one signal indicative of vehicle acceleration along the at least one axis to said controller, said single controller being operative to control at least one active suspension component in response to said at least one signal, said single controller also being operative to control the at least one vehicle occupant protection device in response to said at least one signal.

2. The system as defined in claim 1, wherein said at least one sensor comprises at least one accelerometer.

3. The system as defined in claim 2, wherein the at least one axis comprises one of an x-axis of the vehicle, a y-axis of the vehicle and a z-axis of the vehicle.

4. The system as defined in claim 2, wherein said at least one accelerometer comprises a first accelerometer for sensing acceleration of the vehicle along the x-axis, a second accelerometer for sensing acceleration of the vehicle along the y-axis, and a third accelerometer for sensing acceleration of the vehicle along the z-axis.

5. The system as defined in claim 4, wherein said system is free from any other accelerometers that are operative to provide a signal for controlling the at least one active suspension component and the at least one vehicle occupant protection device.

6. The system as defined in claim 4, further comprising a redundant accelerometer for each of said first, second and third accelerometers.

7. The system as defined in claim 2, wherein said at least one accelerometer comprises a multiple axis accelerometer.

8. The system as defined in claim 1, wherein said single controller comprises an electronic controller.

9. The system as defined in claim 1, wherein said single controller is a single electronic controller operative to control the at least one active suspension component and the at least one vehicle occupant protection device, said system being free from any other controllers for controlling the at least one active suspension component and the at least one vehicle occupant protection device.

10. The system as defined in claim 1, wherein the at least one vehicle occupant protection device comprises an inflatable vehicle occupant protection device.

11. The system as defined in claim 10, wherein the inflatable vehicle occupant protection device comprises at least one of a front impact air bag inflatable between a vehicle occupant and a dash of the vehicle, a side impact air bag inflatable between a vehicle occupant and a side structure of the vehicle, an inflatable curtain inflatable away from a roof of the vehicle into a position between a vehicle occupant and a side structure of the vehicle, and an inflatable knee bolster inflatable into a position between legs of a vehicle occupant and a dash of the vehicle.

12. The system as defined in claim 1, wherein the at least one vehicle occupant protection device comprises a seat belt retractor.

13. A system for controlling an active suspension component of a vehicle and a vehicle occupant protection device of the vehicle, said system comprising:

a single electronic controller, said single electronic controller being controllably connected to at least one active suspension component of a vehicle and controllably connected to at least one vehicle occupant protection device of the vehicle; and

at least one accelerometer for sensing acceleration of the vehicle along an x-axis, a y-axis and a z-axis of the vehicle, said at least one accelerometer being operatively connected to said single electronic controller to provide at least one signal indicative of vehicle acceleration along the x-axis, y-axis and z-axis to said single electronic controller, said single electronic controller being operative to control the at least one active suspension component in response to said at least one signal, said single electronic controller also being operative to control the at least one vehicle occupant protection device in response to said at least one signal, said system being free from any other controllers for controlling the at least one active suspension component of a vehicle and the at least one occupant protection device of the vehicle.

14. The system as defined in claim 13, wherein said at least one accelerometer comprises a first accelerometer for sensing acceleration of the vehicle along the x-axis, a second accelerometer for sensing acceleration of the vehicle along the y-axis, and a third accelerometer for sensing acceleration of the vehicle along the z-axis.

15. A method for controlling an active suspension component of a vehicle and a vehicle occupant protection device of the vehicle, said method comprising the steps of:

providing a controller, said controller being operatively connected to at least one active suspension component of a vehicle and at least one vehicle occupant protection device of the vehicle;

providing at least one sensor for sensing acceleration of the vehicle along at least one axis of the vehicle, said at least one sensor being operatively connected to said controller to provide a signal indicative of vehicle acceleration along the at least one axis to said controller, said controller performing the steps of:

obtaining said signal from said means for sensing;

determining whether a vehicle roll condition exists and actuating the at least one active suspension component in response to the roll condition;

determining whether a vehicle pitch condition exists and actuating the at least one active suspension component in response to the pitch condition;

determining whether a vehicle impact condition exists and actuating the at least one vehicle occupant protection device in response to the vehicle impact condition; and

determining whether a vehicle rollover condition exists and actuating the at least one vehicle occupant protection device in response to the vehicle rollover condition.

16. The method as defined in claim 15, wherein said step of determining whether a vehicle impact condition exists and actuating the at least one vehicle occupant protection device in response to a determined vehicle impact condition comprises the steps of:

determining whether a front impact condition exists and actuating a seat belt restraint and inflatable frontal restraints in response to the front impact condition;

determining whether a rear impact condition exists and actuating a seat belt restraint and inflatable frontal restraints in response to the rear impact condition; and

determining whether a side impact condition exists and actuating a seat belt restraint and inflatable side impact restraints in response to the side impact condition.

17. The method as defined in claim 15, wherein said step of determining whether a vehicle rollover condition exists and actuating the at least one vehicle occupant protection device in response to a determined vehicle rollover condition further comprises the steps of:

determining whether a vehicle rollover condition exists; and
actuating a seat belt restraint, inflatable frontal restraints and inflatable side impact restraints in response to the rollover condition.

18. The method as defined in claim 15, wherein said step of providing at least one sensor comprises the steps of:

providing a first sensor for sensing vehicle acceleration along an x-axis of the vehicle;

providing a second sensor for sensing vehicle acceleration along a y-axis of the vehicle; and

providing a third sensor for sensing vehicle acceleration along a z-axis of the vehicle.